

Department of Health and Human Services

DEPARTMENTAL APPEALS BOARD

Appellate Division

SUBJECT: Connecticut Department of Social Services DATE: November 6, 2007
Docket No. A-06-76
Decision No. 2128

DECISION

The Connecticut Department of Social Services (Connecticut) appealed a determination by the Administration for Children and Families (ACF), dated January 31, 2006, that Connecticut is subject to a financial penalty that would reduce its funding for the Temporary Assistance for Needy Families (TANF) program under title IV-A of the Social Security Act (Act). ACF determined that a penalty was authorized because Connecticut's child support enforcement program under title IV-D of the Act failed to submit complete and reliable data needed to determine its performance at establishing paternity during federal fiscal years (FFYs) 2003 and 2004. The amount of the penalty is \$2,401,093, or 1% of Connecticut's adjusted TANF funding for FFY 2003.

This appeal was stayed pending resolution of the appeal in federal court of Alabama Dept. of Human Resources, et al., DAB No. 1989 (2005), in which the Board sustained ACF's imposition of earlier penalties on nine other States for failure to achieve required IV-D performance levels during FFYs 2001 and 2002 and/or to submit reliable data needed to calculate performance during those years. Connecticut requested the stay on the basis that the issues in this appeal are similar to those raised in Alabama. Connecticut App. Br. at 2. The Federal District Court for the District of Columbia affirmed the Board's decision in Alabama Dept. of Human Resources, et al. v. U.S. Dept. of Health and Human Services, 478 F.Supp.2d 85 (D.D.C. 2007), and the States did not appeal the court's decision.

In this appeal, Connecticut argues that it received neither the notice set forth in ACF's regulations nor the corrective action year contemplated by statute. Connecticut also argues that ACF acted arbitrarily and capriciously in determining the reliability of paternity establishment data for the State's IV-D caseload.

The Board rejected those arguments in DAB No. 1989, and the district court affirmed the Board's holding. See also Nevada Dept. of Human Resources, DAB No. 1995 (2005), aff'd, Nevada v. Leavitt, No. 05-00697-HDM-VPC (D. Nev. Dec. 28, 2006); Indiana Family and Social Services Administration, DAB No. 2001 (2005), aff'd, Alabama Dept. of Human Resources, et al.; Puerto Rico Dept. of the Family, DAB No. 1993 (2005), appeal pending; and Virgin Islands Dept. of Justice, DAB No. 2003 (2005) (addressing and finding in ACF's favor on the notice and corrective action year issues, as well as on other issues).

In a telephone conference convened on October 31, 2007, Connecticut agreed with ACF that it would be appropriate for the Board to issue a summary decision in this appeal based on the Board's previous decisions and the related court decisions, cited above. Accordingly, with the parties' consent, we are issuing a summary decision sustaining ACF's determination that Connecticut is subject to a penalty, based on the analysis first presented in Alabama and further developed in the other Board decisions and in the related court decisions, cited above. We fully incorporate that analysis by reference here.

Conclusion

For the reasons stated above or incorporated by reference, we uphold ACF's determination imposing a penalty on Connecticut of \$2,401,093 for failure to submit complete and reliable data needed to determine its performance at establishing paternity during FFYs 2003 and 2004.

/s/

Sheila Ann Hegy

/s/

Constance B. Tobias

/s/

Judith A. Ballard
Presiding Board Member